

HOUSE BILL NO. 346

INTRODUCED BY GOLIE, GALVIN-HALCRO, CLARK, JOPEK, JAYNE, CALLAHAN, CAMPBELL,
DOWELL, WINDHAM, SMALL-EASTMAN, BERGREN, WANZENRIED, NOONAN, SESSO, PARKER,
WISEMAN, BUZZAS, GROSBECK, DRISCOLL, FRANKLIN, GRINDE, JUNEAU, FUREY, HINER, BECKER,
BRANAE, COHENOUR, GUTSCHE, JACOBSON, LENHART, LINDEEN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CERTAIN RETIRED VOLUNTEER FIREFIGHTERS
TO RETURN TO WORK WHILE CONTINUING TO RECEIVE A PENSION BENEFIT; PRESCRIBING
ELIGIBILITY CRITERIA; AMENDING SECTIONS 19-17-102, 19-17-401, AND 33-22-136, MCA; AND
PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-17-102, MCA, is amended to read:

"19-17-102. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) "Active member" means a volunteer firefighter credited with service under this chapter during the most recently reportable fiscal year.

(2) "Benefit" means the pension, disability, or survivorship benefit provided under this chapter.

(3) "Board" means the public employees' retirement board provided for in 2-15-1009.

(4) "Claim" means a request from a member, surviving spouse, or dependent child for payment of medical or funeral expenses.

(5) "Department" means the department of administration.

(6) "Dependent child" means a child who is unmarried, who is under 18 years of age, and who is the child of a deceased member.

(7) "Disability" or "permanent total disability" means permanent total disability as defined in 39-71-116.

(8) "Fire company" means a fire company organized in an unincorporated area, town, or village in accordance with 7-33-2311.

(9) "Fiscal year" means the 12-month period that begins on July 1 and ends on June 30 of the following year.

(10) "Member" means a volunteer firefighter who has service credited under this chapter.

(11) "Pension trust fund" means the volunteer firefighters' pension trust fund established to pay claims and benefits under this chapter.

(12) "Retiree" or "retired member" means a member who is receiving full or partial participation benefits or disability benefits from the pension trust fund.

(13) "Service" means cumulative periods of active membership that are credited only in full fiscal year increments.

(14) "Supplemental insurance" means insurance that is carried by a fire company for the purposes of providing disability or death benefits and that is in addition to any insurance required by law, including workers' compensation insurance.

(15) "Surviving spouse" means the spouse married to a member when the member dies.

(16) "Survivorship benefit" means the monthly benefit paid to the surviving spouse or dependent child of a deceased member.

(17) "Volunteer firefighter" means a person who is an active member of an eligible fire company, except a retired member who has returned to voluntarily serve with a fire company as provided in 19-17-401(5), and is not compensated for services as a firefighter."

Section 2. Section 19-17-401, MCA, is amended to read:

"19-17-401. Eligibility for pension and disability benefits. (1) To qualify for a full pension, partial pension, or disability benefit under this chapter, a member shall meet the requirements of subsections (2) or (3) and (4).

(2) (a) For a full pension benefit, a member must have completed 20 years of service and must have attained 55 years of age, but need not be an active member of a fire company when 55 years of age is reached.

(b) A member who is prevented from completing at least 20 years of service may qualify for a partial pension benefit if the member has completed at least 10 years of service and has attained 60 years of age, but need not be an active member of any fire company when 60 years of age is reached.

(3) An active member of a fire company whose duty-related injury results in permanent total disability, as defined in 39-71-116 and determined pursuant to 19-17-410, is eligible, regardless of age or service, to receive a disability benefit.

(4) Except as provided in subsection (5):

1 (a) to receive a pension or disability benefit, a volunteer firefighter may not be an active member of any
2 fire company; and

3 (b) a volunteer firefighter who receives a pension or disability benefit under this chapter may not
4 become an active member of any fire company.

5 (5) (a) In the event of a declared national, state, or local emergency affecting Montana, a retired
6 volunteer firefighter who is not receiving a disability benefit under this chapter may return to active service with
7 a fire company for the duration of the declared emergency without becoming an active member under the
8 Volunteer Firefighters' Compensation Act and the volunteer firefighters' pension plan and without loss of
9 previously earned benefits. Only the fire chief of the fire company may determine who may return to active
10 service. The fire chief shall prescribe the duties of any retired volunteer firefighter returning to active service.

11 ~~———— (b) A retired member who has at least 30 years of service, or who has at least 25 years of service and~~
12 ~~is at least 55 years of age and who is not receiving a disability benefit under this chapter, may serve as a~~
13 ~~volunteer firefighter with a fire company and may continue to receive the retired member's pension benefits.~~
14 ~~However, the member may not become an active member, may not earn additional service credit, and is not~~
15 ~~eligible for additional pension benefits.~~

16 (B) A MEMBER WHO IS RECEIVING A FULL PENSION BENEFIT, AS PROVIDED IN 19-17-404, MAY RETURN TO
17 SERVICE WITH A VOLUNTEER FIRE DEPARTMENT WITHOUT LOSS OF BENEFITS. A MEMBER RETURNING TO SERVICE UNDER
18 THIS SECTION MAY NOT BE CONSIDERED AN ACTIVE MEMBER EARNING SERVICE CREDIT."

19
20 **Section 3.** Section 33-22-136, MCA, is amended to read:

21 **"33-22-136. Insurance for spouse and dependents of deceased peace officer, game warden, or**
22 **firefighter.** (1) Any insurer, health service corporation, or health maintenance organization issuing group
23 disability coverage to the spouse or dependents of a peace officer as defined in 45-2-101, a game warden as
24 defined in 19-8-101, a firefighter as defined in 19-13-104, ~~or~~ a volunteer firefighter as defined in 19-17-102, or
25 a retired volunteer firefighter who voluntarily returns to serve with a fire company under 19-17-401(5) shall renew
26 the coverage of the spouse or dependents if the peace officer, game warden, firefighter, or volunteer firefighter
27 dies within the course and scope of employment. This section also applies to a state employee group insurance
28 program, a university system group insurance program, an employee group insurance program of a city, town,
29 county, school district, or other political subdivision of the state, and any self-funded multiple employer welfare
30 arrangement not regulated by the Employee Retirement Income Security Act of 1974 that provides coverage

1 for a peace officer, game warden, firefighter, or volunteer firefighter. Except as provided in subsection (2), the
2 continuation of the coverage is at the option of the spouse or dependents. Renewals of coverage under this
3 section must provide for the same level of benefits as are available to other members of the group. Premiums
4 charged to a spouse or dependent under this section must be the same as premiums charged to other similarly
5 situated members of the group. Dependent special enrollment must be allowed under the terms of 33-22-523(2)
6 and (3). The provisions of this subsection are applicable to a spouse or dependent who is insured under a
7 COBRA continuation provision.

8 (2) A disability insurance issuer subject to the provisions of subsection (1) may discontinue or not renew
9 the coverage of a spouse or dependent only if:

10 (a) the spouse or dependent has failed to pay premiums or contributions in accordance with the terms
11 of the disability insurance coverage or if the disability insurer has not received timely premium payments;

12 (b) the spouse or dependent has performed an act or practice that constitutes fraud or has made an
13 intentional misrepresentation of a material fact under the terms of the coverage; or

14 (c) the disability insurance issuer is ceasing to offer coverage in the group disability market in
15 accordance with applicable state law."

16
17 COORDINATION SECTION. SECTION 4. COORDINATION INSTRUCTION. IF SENATE BILL NO. 197 AND [THIS
18 ACT] ARE BOTH PASSED AND APPROVED, THEN [THIS ACT] IS VOID.

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20 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2005.

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